

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**KEVIN FENNICK,**

**Plaintiff,**

**v.**

**Civil Action 2:11-cv-01107**

**Judge James L. Graham**

**Magistrate Judge E.A. Preston Deavers**

**DAMON SAMS,**

**Defendant.**

**ORDER**

This matter is before the Court for consideration of the January 5, 2012 Report and Recommendation of the Magistrate Judge. Pursuant to an initial screen, the Magistrate Judge recommended that the Court dismiss Plaintiff's action for failure to state a claim.<sup>1</sup> The Magistrate Judge specifically found that Plaintiff's Complaint failed to state a claim for either trade name infringement or cybersquatting.

On January 13, 2012, Plaintiff filed a document entitled "Emergency Motion for Sixty Day Extension and Opposition for Evaluation . . ." (ECF No. 6.) The Court interpreted this filing as a Motion for Extension and granted the Motion in part, giving Plaintiff thirty days from January 18, 2012, to submit additional argument in objection to the Report and Recommendation. As of the date of this Order, Plaintiff has failed to file an Objection to the Report and Recommendation.<sup>2</sup>

The Court has performed a *de novo* review of the Report and Recommendation pursuant

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<sup>1</sup> The Magistrate Judge considered the content of Plaintiff's December 23, 2011 Motion to Amend, but still found that Plaintiff failed to state a claim.

<sup>2</sup> Construed liberally, portions of Plaintiff's January 13, 2012 filing to appear to contest the Magistrate Judge's findings, although in a conclusory fashion.

to 28 U.S.C. § 636(b). Even construing Plaintiff's January 13, 2012, filing as an Objection to the Report and Recommendation, the Court agrees with the Magistrate Judge that Plaintiff has failed to plead sufficient factual detail to state a facially plausible claim. The Court also agrees with the Magistrate Judge that Plaintiff's proffered amendment, including his proposed claim against an additional defendant, also fails to state a facially plausible claim. Accordingly, the January 5, 2012, Report and Recommendation (Doc. 5) is **ADOPTED**, Plaintiff's Motion to Amend (Doc. 4) is **DENIED**, and Plaintiff's action is dismissed pursuant to 28 U.S.C. § 1915(e) for failure to state a claim. To the extent Plaintiff requests a hearing or appointment of counsel, these requests are **DENIED**.

**IT IS SO ORDERED.**

S/ James L. Graham  
James L. Graham  
UNITED STATES DISTRICT COURT

Date: February 27, 2012